

1 A bill to be entitled

2 An act relating to the security of a protected  
3 consumer's information; providing a short title;  
4 creating s. 501.0051, F.S.; providing definitions;  
5 authorizing the representative of a protected consumer  
6 to place a security freeze on a protected consumer's  
7 consumer report or record; specifying the procedure to  
8 request a security freeze; requiring a consumer  
9 reporting agency to establish a record if the  
10 protected consumer does not have an existing consumer  
11 report; prohibiting the use of a consumer record for  
12 certain purposes; requiring a consumer reporting  
13 agency to place, and to provide written confirmation  
14 of, a security freeze within a specified period;  
15 prohibiting a consumer reporting agency from stating  
16 or implying that a security freeze reflects a negative  
17 credit history or rating; requiring a consumer  
18 reporting agency to remove a security freeze under  
19 specified conditions; specifying the procedure to  
20 remove a security freeze; providing applicability;  
21 authorizing a consumer reporting agency to charge a  
22 fee for placing or removing a security freeze and for  
23 reissuing a unique personal identifier; prohibiting a  
24 fee under certain circumstances; requiring written  
25 notification upon the change of specified information  
26 in a protected consumer's consumer report or record;

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27 providing exceptions; requiring a consumer reporting  
 28 agency to notify a representative and provide  
 29 specified information if the consumer reporting agency  
 30 violates a security freeze; providing penalties and  
 31 civil remedies; providing written disclosure  
 32 requirements for consumer reporting agencies relating  
 33 to a protected consumer's security freeze; providing  
 34 an effective date.

35  
 36 Be It Enacted by the Legislature of the State of Florida:

37  
 38 Section 1. This act may be cited as the "Keeping I.D. Safe  
 39 (KIDS) Act."

40 Section 2. Section 501.0051, Florida Statutes, is created  
 41 to read:

42 501.0051 Protected consumer report security freeze.-

43 (1) As used in this section, the term:

44 (a) "Consumer report" has the same meaning as provided in  
 45 15 U.S.C. s. 1681a(d).

46 (b) "Consumer reporting agency" has the same meaning as  
 47 provided in 15 U.S.C. s. 1681a(f).

48 (c) "Protected consumer" means a person younger than 16  
 49 years of age at the time a security freeze request is made or a  
 50 person represented by a guardian or other advocate pursuant to  
 51 chapter 39, chapter 393, chapter 744, or chapter 914, Florida  
 52 Statutes.

53 (d) "Record" means a compilation of information that:

54 1. Identifies a protected consumer; and

55 2. Is created by a consumer reporting agency exclusively  
 56 for the purpose of complying with this section.

57 (e) "Representative" means the parent or legal guardian of  
 58 a protected consumer, including a guardian appointed pursuant to  
 59 s. 914.17.

60 (f) "Security freeze" means:

61 1. A notice placed on a protected consumer's consumer  
 62 report which prohibits a consumer reporting agency from  
 63 releasing the consumer report, the credit score, or any  
 64 information contained within the consumer report to a third  
 65 party without the express authorization of the representative;  
 66 or

67 2. If a consumer reporting agency does not have a consumer  
 68 report pertaining to the protected consumer, a notice placed on  
 69 the protected consumer's record which prohibits the consumer  
 70 reporting agency from releasing the protected consumer's record  
 71 except as provided in this section.

72 (g) "Sufficient proof of authority" means documentation  
 73 showing that a representative has authority to act on behalf of  
 74 a protected consumer. The term includes, but is not limited to,  
 75 a court order, a copy of a valid power of attorney, or a written  
 76 notarized statement signed by a representative which expressly  
 77 describes the authority of the representative to act on behalf  
 78 of the protected consumer. For proof of authority for a

79 representative who is a parent, the term also includes, but is  
 80 not limited to, a certified or official copy of a birth  
 81 certificate of the protected consumer.

82 (h) "Sufficient proof of identification" means  
 83 documentation identifying a protected consumer or a  
 84 representative of a protected consumer. The term includes, but  
 85 is not limited to, a copy of a social security card, a certified  
 86 or official copy of a birth certificate, a copy of a valid  
 87 driver license, or a copy of a government-issued photo  
 88 identification.

89 (2) A representative may place a security freeze on a  
 90 protected consumer's consumer report by:

91 (a) Submitting a request to a consumer reporting agency in  
 92 the manner prescribed by that agency;

93 (b) Providing the agency with sufficient proof of  
 94 authority and sufficient proof of identification of the  
 95 representative; and

96 (c) Paying the agency a fee as authorized under this  
 97 section.

98 (3) If a consumer reporting agency does not have a  
 99 consumer report pertaining to a protected consumer when the  
 100 consumer reporting agency receives a request for a security  
 101 freeze under subsection (2), the consumer reporting agency shall  
 102 create a record for the protected consumer and place a security  
 103 freeze on the record. A record may not be created or used to  
 104 consider the protected consumer's credit worthiness, credit

105 standing, credit capacity, character, general reputation,  
 106 personal characteristics, or eligibility for other financial  
 107 services.

108 (4) A consumer reporting agency shall place a security  
 109 freeze on a consumer report or record within 30 days after  
 110 confirming the authenticity of a security freeze request made in  
 111 accordance with this section.

112 (5) The consumer reporting agency shall send a written  
 113 confirmation of the security freeze to the representative within  
 114 10 business days after instituting the security freeze on the  
 115 consumer report or record and shall provide the representative  
 116 with instructions for removing the security freeze and a unique  
 117 personal identifier to be used by the representative when  
 118 providing authorization for removal of the security freeze.

119 (6) A consumer reporting agency may not state or imply to  
 120 any person that a security freeze reflects a negative credit  
 121 score, a negative credit history, or a negative credit rating.

122 (7) A consumer reporting agency shall remove a security  
 123 freeze from a protected consumer's consumer report or record  
 124 only under either of the following circumstances:

125 (a) Upon the request of a representative or a protected  
 126 consumer. A consumer reporting agency shall remove a security  
 127 freeze within 30 days after receiving such a request for removal  
 128 from a protected consumer or his or her representative.

129 1. A representative submitting a request for removal must  
 130 provide all of the following:

131 a. Sufficient proof of identification of the representative  
 132 and sufficient proof of authority as determined by the consumer  
 133 reporting agency.

134 b. The unique personal identifier provided by the consumer  
 135 reporting agency pursuant to subsection (5).

136 c. A fee as authorized under this section.

137 2. A protected consumer submitting a request for removal  
 138 must provide all of the following:

139 a. Sufficient proof of identification of the protected  
 140 consumer as determined by the consumer reporting agency.

141 b. Documentation that the sufficient proof of authority of  
 142 the protected consumer's representative to act on behalf of the  
 143 protected consumer is no longer valid.

144 c. A fee as authorized under this section.

145 (b) If the security freeze was instituted due to a  
 146 material misrepresentation of fact. A consumer reporting agency  
 147 that intends to remove a security freeze under this paragraph  
 148 shall notify the representative and protected consumer in  
 149 writing before removing the security freeze.

150 (8) This section does not apply to the use of a protected  
 151 consumer's consumer report or record by the following persons or  
 152 for the following reasons:

153 (a) A state agency acting within its lawful investigative  
 154 or regulatory authority.

155 (b) A state or local law enforcement agency investigating  
 156 a crime or conducting a criminal background check.

157 (c) A person administering a credit file monitoring  
 158 subscription service to which the protected consumer or the  
 159 representative, on behalf of the protected consumer, has  
 160 subscribed.

161 (d) A person providing the protected consumer's consumer  
 162 report or record to the protected consumer or the representative  
 163 upon the request of the protected consumer or representative.

164 (e) Pursuant to a court order lawfully entered.

165 (f) An insurance company for use in setting or adjusting a  
 166 rate, adjusting a claim, or underwriting for insurance purposes.

167 (g) A consumer reporting agency's database or file that  
 168 consists entirely of information concerning, and used  
 169 exclusively for, one or more of the following:

- 170 1. Criminal record information.
- 171 2. Personal loss history information.
- 172 3. Fraud prevention or detection.
- 173 4. Tenant screening.
- 174 5. Employment screening.
- 175 6. Personal insurance policy information.
- 176 7. Noncredit information used for insurance purposes.

177 (h) A check services company issuing authorizations for  
 178 the purpose of approving or processing negotiable instruments,  
 179 electronic funds transfers, or similar methods of payment.

180 (i) A deposit account information service company issuing  
 181 reports regarding account closures due to fraud, substantial  
 182 overdrafts, automatic teller machine abuse, or similar negative

183 information regarding a protected consumer to an inquiring  
 184 financial institution, as defined in s. 655.005 or in federal  
 185 law, for use only in reviewing a representative's request for a  
 186 deposit account for the protected consumer at the inquiring  
 187 financial institution.

188 (j) A consumer reporting agency that acts only as a  
 189 reseller of credit information by assembling and merging  
 190 information contained in the database of another consumer  
 191 reporting agency or multiple consumer reporting agencies and  
 192 that does not maintain a permanent database of credit  
 193 information from which new consumer reports are produced.  
 194 However, such consumer reporting agency shall honor any security  
 195 freeze placed or removed by another consumer reporting agency.

196 (k) A fraud prevention services company issuing reports to  
 197 prevent or investigate fraud.

198 (l) A person or entity, or its affiliates, or a collection  
 199 agency acting on behalf of the person or entity and with which  
 200 the protected consumer has an existing account, requesting  
 201 information in the protected consumer's consumer report or  
 202 record for the purposes of reviewing or collecting the account.  
 203 Reviewing the account includes activities related to account  
 204 maintenance, monitoring, credit line increases, and account  
 205 upgrades and enhancements.

206 (9) (a) A consumer reporting agency may charge a reasonable  
 207 fee, not to exceed \$10, to place or remove a security freeze.

208 (b) A consumer reporting agency may charge a reasonable

209 fee, not to exceed \$10, if the representative fails to retain  
 210 the original unique personal identifier provided by the consumer  
 211 reporting agency and the agency must reissue the unique personal  
 212 identifier or provide a new unique personal identifier to the  
 213 representative.

214 (c) A consumer reporting agency may not charge a fee under  
 215 this section to the representative of a protected consumer who  
 216 is a victim of identity theft if the representative submits, at  
 217 the time the security freeze is requested, a copy of a valid  
 218 investigative report, an incident report, or a complaint with a  
 219 law enforcement agency about the unlawful use of the protected  
 220 consumer's identifying information by another person.

221 (10) If a security freeze is in effect, a consumer  
 222 reporting agency must send written confirmation to a protected  
 223 consumer's representative of a change to any of the following  
 224 official information in the protected consumer's consumer report  
 225 or record within 30 days after the change is posted:

- 226 (a) The protected consumer's name.
- 227 (b) The protected consumer's address.
- 228 (c) The protected consumer's date of birth.
- 229 (d) The protected consumer's social security number.

230  
 231 Written confirmation is not required for technical corrections  
 232 of a protected consumer's official information, including name  
 233 and street abbreviations, complete spellings, or transposition  
 234 of numbers or letters. In the case of an address change, the

235 written confirmation must be sent to the representative and to  
 236 the protected consumer's new address and former address.

237 (11) If a consumer reporting agency violates a security  
 238 freeze placed in accordance with this section by releasing  
 239 information subject to a security freeze without proper  
 240 authorization, the consumer reporting agency shall, within 5  
 241 business days after discovering or being notified of the release  
 242 of information, notify the representative of the protected  
 243 consumer in writing. The notice shall state the specific  
 244 information released and provide the name, address, and other  
 245 contact information of the recipient of the information.

246 (12) A consumer reporting agency that willfully fails to  
 247 comply with any requirement imposed under this section is  
 248 subject to an administrative fine in the amount of \$500, imposed  
 249 by the Department of Agriculture and Consumer Services pursuant  
 250 to the administrative procedures established in chapter 120.

251 (13) In addition to any other penalties or remedies  
 252 provided under law, the following persons who are aggrieved by a  
 253 violation of this section may bring a civil action as follows:

254 (a) A person who obtains a protected consumer's consumer  
 255 report or record from a consumer reporting agency under false  
 256 pretenses or who knowingly obtains a protected consumer's  
 257 consumer report or record without a permissible purpose is  
 258 liable to the representative and protected consumer for actual  
 259 damages sustained by the protected consumer or \$1,000, whichever  
 260 is greater.

261 (b) A person who obtains a protected consumer's consumer  
 262 report or record from a consumer reporting agency under false  
 263 pretenses or who knowingly obtains a protected consumer's  
 264 consumer report or record without a permissible purpose is  
 265 liable to the consumer reporting agency for actual damages  
 266 sustained by the consumer reporting agency or \$1,000, whichever  
 267 is greater.

268 (14) A written disclosure by a consumer reporting agency,  
 269 pursuant to 15 U.S.C. s. 1681g, to a representative and  
 270 protected consumer residing in this state must include a written  
 271 summary of all rights that the representative and protected  
 272 consumer have under this section and, in the case of a consumer  
 273 reporting agency that compiles and maintains records on a  
 274 nationwide basis, a toll-free telephone number that the  
 275 representative can use to communicate with the consumer  
 276 reporting agency. The information provided in paragraph (b) must  
 277 be in at least 12-point boldfaced type. The written summary of  
 278 rights required under this section is sufficient if it is  
 279 substantially in the following form:

280 (a) If you are the parent or legal guardian of a minor  
 281 younger than 16 years of age or a guardian or advocate of an  
 282 incapacitated, disabled, or protected person under chapter 39,  
 283 chapter 393, chapter 744, or chapter 914, Florida Statutes, you  
 284 have the right to place a security freeze on the consumer report  
 285 of the person you are legally authorized to care for. If no  
 286 consumer report exists, you have the right to request that a

287 record be created and a security freeze be placed on the record.  
 288 A record with a security freeze is intended to prevent the  
 289 opening of credit accounts until the security freeze is removed.

290 (b) YOU SHOULD BE AWARE THAT USING A SECURITY FREEZE TO  
 291 CONTROL ACCESS TO THE PERSONAL AND FINANCIAL INFORMATION IN A  
 292 CONSUMER REPORT OR RECORD MAY DELAY, INTERFERE WITH, OR PROHIBIT  
 293 THE TIMELY APPROVAL OF ANY SUBSEQUENT REQUEST OR APPLICATION  
 294 REGARDING A NEW LOAN, CREDIT, MORTGAGE, INSURANCE, GOVERNMENT  
 295 SERVICES OR PAYMENTS, RENTAL HOUSING, EMPLOYMENT, INVESTMENT,  
 296 LICENSE, CELLULAR PHONE, UTILITIES, DIGITAL SIGNATURE, INTERNET  
 297 CREDIT CARD TRANSACTION, OR OTHER SERVICES, INCLUDING AN  
 298 EXTENSION OF CREDIT AT POINT OF SALE.

299 (c) To remove the security freeze on the protected  
 300 consumer's record or report, you must contact the consumer  
 301 reporting agency and provide all of the following:

302 1. Proof of identification as required by the consumer  
 303 reporting agency.

304 2. Proof of authority over the protected consumer as  
 305 required by the consumer reporting agency.

306 3. The unique personal identifier provided by the consumer  
 307 reporting agency.

308 4. Payment of a fee.

309 (d) A consumer reporting agency must, within 30 days after  
 310 receiving the above information, authorize the removal of the  
 311 security freeze.

312 (e) A security freeze does not apply to a person or

313 entity, or its affiliates, or a collection agency acting on  
314 behalf of the person or entity and with which the protected  
315 consumer has an existing account, which requests information in  
316 the protected consumer's consumer report or record for the  
317 purposes of reviewing or collecting the account. Reviewing the  
318 account includes activities related to account maintenance,  
319 monitoring, credit line increases, and account upgrades and  
320 enhancements.

321 (f) You have the right to bring a civil action as  
322 authorized by section 501.0051, Florida Statutes, which governs  
323 the security of protected consumer information.

324 Section 3. This act shall take effect September 1, 2014.